

### REMARKS

This is in response to the Office Action mailed on August 24, 2004, and the references cited therewith.

Claims 1, 22 and 32 are amended; as a result claims 1-4, 6, 8-11, 13-22, 24-35, 37, 39-42 and 44-52 are now pending in this application.

Claims 1, 22 and 32 have been amended to replace the word "comprises" with the word "indicate."

#### §103 Rejection of the Claims

Claims 1-4, 6, 8-11, 13-22, 24-35, 37, 39-42 and 44-52 were rejected under 35 USC § 103(a) as being unpatentable over Pickering et al. (U.S. 6,493,695) in view of Barkan et al. (U.S. 6,366,575; hereinafter Barkan). Reasons for rejection of the claims appear below.

Applicants respectfully submit that claims 1-4, 6, 8-11, 13-22, 24-35, 37, 39-42 and 44-52 should not be rejected under 35 U.S.C. § 103 for the reason that prior art references when combined do not teach or suggest all of the claim limitations of the independent claims of the present application.

To establish a **prima facie** case of **obviousness**, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

Claim 1 includes the following limitations:

receiving a ...plurality of agent data...

....wherein the ....agent data comprises receiving status messages ....provid[ing] agent availability data that indicates whether an agent...accepts a task upon a system overloaded condition.

The Office Action, in rejecting claim 1, contends that the above limitation is anticipated by the following disclosures in Barkan:

Call router 18 receives agent status messages from agent stations 14 that describe the states of agent stations 14, e.g., busy on a call, idle, doing wrap-up, available for a call.

Col. 4, lines 24-27.

The incoming call comes in to the identified agent station 14 at Step 10; agent station 14 informs call router 18 of the call (including the CLID for the outside telephone),....

Col. 4, lines 24-27.

The above quotes from Barkan describe agent stations and a call router. The first quote describes the call router as receiving an agent status message from an agent station. The agent status messages describe the state of the agent station. The agent station states may include a call idle state, doing wrap-up state, and available for a call state. The second quote describes the agent station receiving an incoming call and informing the call router of the incoming call.

Claim 1 requires receiving a status message from an agent that includes agent availability data, which in turn indicates whether the agent accepts a task upon a system overloaded condition. Merely for example, in one embodiment, a status message may be received with agent availability data that indicates, "AVAILABLE IF NEEDED", which is useful "if persons with ...positions in the company have the skills needed to assist in handling tasks when the volume of tasks exceeds a predetermined threshold (Application, page 6, lines 8-15).

In contrast, the above quotes from Barkan do not disclose a status message from an agent that includes agent availability data indicating whether the agent accepts a task upon a system overloaded condition. Indeed the first quote discloses an agent status message from an agent station that describes the state of an agent station including a busy on a call state, an idle state, a doing wrap-up state, and an available for a call state. Clearly a busy on a call state, an idle state, a doing wrap-up state, or an available for a call state, do not respectively describe whether the agent accepts a task upon a system overload condition, as required by claim 1. A state of an agent station is not a system condition, much less a system overloaded condition, much less an indication of whether the agent accepts a task upon a system overloaded condition.

Independent claims 22 and 32 each include a limitations corresponding substantially to the above-discussed limitations of claim 1. The above remarks are accordingly also applicable to a consideration of these independent claims.

In addition, if an independent claim is nonobvious under 35 U.S.C. § 103(a) then, any claim depending therefrom is nonobvious and rejection of claims 2-4, 6, 8-11, 13-21, 24-31, 33-35, 37, 39-42, and 44-52 under 35 U.S.C. § 103(a) is also addressed by the above remarks.

In summary, Pickering in combination with Barkan does not teach or suggest each and every limitation of claims 1-4, 6, 8-11, 13-22, 24-35, 37, 39-42 and 44-52 as required to support rejections of the independent claims of the present application under 35 U.S.C. § 103(a).

Conclusion

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at 408-846-8871 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 22nd day of December, 2004.

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